UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/1994/51
24 January 1994

ENGLISH
Original: SPANISH

COMMISSION ON HUMAN RIGHTS
Fiftieth session
Item 12 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the situation of human rights in Cuba, prepared by the Special Rapporteur, Mr. Carl-Johan Groth, in accordance with Commission resolution 1993/63

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I. INTRODUCTION

1. At its forty-ninth session, the Commission on Human Rights adopted resolution 1993/63, entitled "Situation of human rights in Cuba", on 10 March 1993. In that resolution, the Commission decided to extend for another year the mandate conferred on the Special Rapporteur under resolution 1992/61 of 3 March 1992, whereby Mr. Carl-Johan Groth had been appointed Special Rapporteur.

2. In resolution 1993/63, approved by the Economic and Social Council in its decision 1993/274, the Special Rapporteur was requested to submit a report to the Commission at its fiftieth session, as well as an interim report which was submitted to the General Assembly at its forty-eighth session (A/48/562). For its part, the General Assembly adopted resolution 48/142 entitled "Situation of human rights in Cuba", in which it decided to continue the consideration of the question at the forty-ninth session. The present report is basically an update of the interim report.

3. In resolution 1993/63, the Commission also requested the Special Rapporteur to maintain direct contact with the Government and citizens of Cuba, and, noting that the Government of Cuba had failed to cooperate with the Special Rapporteur, called on it to permit him the opportunity to carry out his mandate in full, in particular by allowing him to visit Cuba.

4. Pursuant to his mandate, the Special Rapporteur, on 24 August 1993, addressed a letter to the Permanent Representative of Cuba to the United Nations Office at Geneva requesting the collaboration of the Cuban Government and an opportunity to visit the country. To date, there has been no answer to the letter, which is reproduced in appendix I to this report.

5. Also pursuant to his mandate, the Special Rapporteur tried to obtain information from a wide variety of sources, and expressed his willingness to receive any person or group wishing to meet him. For that purpose, and bearing in mind that most of the sources of information on the situation of human rights in Cuba are in the United States of America, he travelled to New York and Washington from 15 to 22 September 1993, where he had the opportunity to meet individuals and representatives of the following organizations and groups: the Cuban Committee for Human Rights, the Committee to Support the Human Rights Movement in Cuba, the Cuban Women's Foundation, the Foundation for Human Rights in Cuba, Freedom House, the Cuban Workers Trade Union, Americas Watch, Areito Review, the Cuban-American Committee of New Jersey, the Cuban Christian Democratic Party, the World Federation of Cuban Political Prisoners, the Cuban Human Rights Party, the Centre for Human Rights, the Cuban Committee against the Blockade, the Puerto Rican Group against the Blockade and Inter-American Dialogue. The Special Rapporteur also had a working session in Madrid on 24 September, where he had occasion to meet representatives of the Association for Continental Peace (ASOPAZCO), the Cuban Liberal Union and a group of 13 former Cuban prisoners exiled in Spain. During the current year, the Special Rapporteur also had an opportunity to meet representatives of the Coordinating Body for Human Rights Organizations in Cuba, and received written material - in addition to that received from the

above-mentioned sources - from such sources as the Information Bureau of the Cuban Human Rights Movement and Amnesty International, as well as a number of communications sent to the Special Rapporteur by Cuban citizens residing in Cuba.

II. CIVIL AND POLITICAL RIGHTS

6. In analysing the information received regarding the situation of human rights, the Special Rapporteur has taken as a point of reference the relevant international instruments and in particular wishes to keep in mind some paragraphs of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993. 1/ Firstly, in paragraph 1 of part I of the Declaration, the Conference reaffirmed "the solemn commitment of all States to fulfil their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all in accordance with the Charter of the United Nations, other instruments relating to human rights, and international law. The universal nature of these rights and freedoms is beyond question".

7. For its part, paragraph 5 states that:

> "All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms."

Lastly, paragraph 8 reads:

> "Democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing. Democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives. In the context of the above, the promotion and protection of human rights and fundamental freedoms at the national and international levels should be universal and conducted without conditions attached. The international community should support the strengthening and promoting of democracy, development and respect for human rights and fundamental freedoms in the entire world."

8. On the basis of these provisions, the Special Rapporteur arrived at the following conclusions. No matter what form it takes, a country's political system cannot be maintained if it means that the human rights and fundamental freedoms of citizens defined in international instruments are being systematically violated. Moreover, the interpretation of these rights cannot be the sole prerogative of the authorities of the State or of monolithic Governments which control the channelling of the alleged interests of various sectors of society. The Special Rapporteur is also of the opinion that advances in the economic and social field constitute a constructive basis for

advances in the field of civil and political rights. As stated in the Vienna Declaration and Programme of Action, advances in one area of human rights, specifically economic and social rights, cannot serve as justification for serious shortcomings in the protection and promotion of another category of rights, namely civil and political rights. Given their indivisibility, advances in the two areas must be parallel, otherwise the rights to which priority has been given might in the long term be diminished by the rights formerly minimized.

A. Legal and constitutional framework

9. Certain provisions of the current Constitution are crucial to an understanding of the background to civil and political rights. Article 1 proclaims that "Cuba is a socialist State of workers", and article 5 declares that "the Communist Party of Cuba, inspired by José Martí and Marxist-Leninist in nature, the organized vanguard of the Cuban nation, is the supreme leading force in society and the State, organizing and guiding the common efforts towards the noble goals of building socialism and progressing towards the communist society". According to article 62, "none of the freedoms which are recognized for citizens can be exercised contrary to what is established in the Constitution and the law, or contrary to the existence and objectives of the socialist State, or contrary to the decision of the Cuban people to build socialism and communism. Violations of this principle are punishable".

10. While the Constitution contains several provisions aimed at guaranteeing such basic rights as freedom of speech and freedom of the press (art. 53), freedom of assembly, freedom to demonstrate and freedom of association (art. 54), and the right to file complaints with and send petitions to the authorities (art. 63), it is obvious that those rights may be exercised only when, in the eyes of the authorities, that would not involve any challenge to the status quo or to the official ideology.

11. In this connection, mention should also be made of the constitutional precepts governing mass organizations. Article 6 declares that "the Union of Communist Youth, an organization of Cuban youth in the vanguard, is recognized and encouraged by the State in its primary task of promoting active participation by the young masses in the building of socialism". Likewise, article 7 stipulates that "the Cuban Socialist State recognizes and encourages the mass social organizations [...] which comprise various sectors of the population, represent the specific interests of the same and involve them in the tasks of building, consolidating and defending socialist society". These precepts establish beyond all doubt the ideological framework within which new associations may be formed. Any association which, in the opinion of the authorities, fails to meet that standard will have its application for registration denied or, as happens more often in practice, ignored.

12. A logical corollary to those constitutional precepts is the punishment of any act that can in any way be contrary to the status quo. The 1987 Penal Code thus has among its objectives "helping to develop among all citizens an awareness of the need to respect the socialist legal order, do their duty and properly observe the norms of socialist coexistence" (art. 1). The Code also specifies that "the purpose of the penalty is not only to punish the offence, but also to provide re-education in the principles ... of respect for the

norms of socialist coexistence" (art. 27). The Code goes on to identify a number of acts as offences against the internal security of the State, stipulating heavy prison sentences. In addition, under article 44, the court may, at its discretion, order confiscation of property as punishment for offences against the security of the State. Some of those offences, e.g. rebellion and sedition, involve the use of violence or force of arms. Others, however, such as enemy propaganda, do not involve the use of any violent means. Among those liable to punishment is any person who, by means of spoken, written or any other form of propaganda, incites others to take action against the social order or the socialist State, or who produces, distributes or possesses such propaganda. Furthermore, in the context of offences against the security of the State, preparatory acts are punishable under article 12. Article 72 of the Code deals with the concept of "dangerous state", which it defines as "a person's special proclivity to commit offences as demonstrated by conduct that is manifestly contrary to the norms of socialist morality"; it provides that any person who might develop a proclivity to commit offences, because of connections or relations with persons who are potentially dangerous to the social, economic and political order of the socialist State, shall be warned by the police authorities. It also states that preventive security measures involving, inter alia, supervision by National Revolutionary Police bodies may be taken against a person declared to be in a dangerous state.

13. The Penal Code's definition of other acts as offences - e.g. unlawful association, assembly and demonstration (arts. 208 and 209, which lay down penalties for associate or affiliate members, as well as promoters or directors of unregistered organizations), possession of illegal printed matter (art. 210) or contempt (art. 144) - is also likely to be applied to conduct which in any way implies the expression of opinions critical of the official ideology or of the actions of the authorities.

14. To illustrate this point, the Special Rapporteur would like to mention the provisional conclusions reached by the prosecutor in the October 1992 trial on the charge of enemy propaganda of Sebastián Arcos Bergnes, a leading member of the Cuban Committee for Human Rights, 2/ in order to show what type of action may be punishable:

> "Sebastián Arcos Bergnes, without regard for the law, sent information to stations based outside the country, for the purpose of contributing to the campaign to discredit Cuba.
>
> "In breach of the disciplinary code of the Combinado del Este Prison, he gave handwritten notes to counter-revolutionary inmates, with the aim of helping to incite opposition to the Cuban social system.
>
> "During a search at the Combinado del Este Prison on 11 December 1991 ... pieces of paper with handwriting in ink ... were found on the prisoner. On one piece of paper ... the accused, Sebastián Arcos Bergnes, had written, and I quote: 'We are making continual demands for democratic changes to the regime, and we are trying to develop the necessary national consciousness so as to be able to bring about those changes through peaceful, but firm, civil resistance among the population. That is our main task, our educational task, our present

task ... then demand lunch, transport, private car; then amnesty, freedom of expression, freedom of association and, finally, democracy!' In other words, use systematic propaganda to promote action against our social system."

15. The Special Rapporteur does not consider it part of his mandate to express opinions about the ideological principles embodied in the Constitution. His comments relate to the restrictions which the interpretation and implementation of those principles by the authorities may place on the basic rights of the population.

B. Most frequent patterns of violations and specially vulnerable groups

16. On the basis of direct testimony, contacts with analysts of the Cuban experience and abundant written documentation, the Special Rapporteur has been able to note the excessive control exerted over the population via the institutional machinery. This has resulted in a systematic violation of, inter alia, the principle of non-discrimination on political grounds and the right to freedom of opinion and expression. This control is applied in the day-to-day life of every citizen - in the workplace, at educational institutions and even at the neighbourhood level. Education itself also has an ideological orientation, to judge from the Constitution, article 38 of which states that parents have a duty to contribute actively to the all-round education and training of their children as useful citizens prepared for life in a socialist society, whereas article 39 stipulates that the State bases its educational and cultural policy on Marxist ideology, and promotes patriotic education and communist training of the new generations.

17. According to the information received, the so-called "cumulative school record" and "employment record" make it possible to monitor the ideological integration of individuals virtually throughout their lives, by including not only purely academic or employment-related material, but also information regarding their membership in mass organizations, functions performed in such organizations, level of activism, ideological features of family members, misconduct, etc. Often individuals are expelled from educational institutions, dismissed from their jobs or subjected to some form of discrimination for expressing, in some way, views inconsistent with the official ideology.

18. The Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organisation, considered some of these questions in connection with the application of Convention No. 111 concerning Discrimination in respect of Employment and Occupation, ratified by Cuba in 1965, in the light of comments made by non-governmental organizations alleging discrimination based on political opinion, in access to education, training and employment. Since this Committee is a body with which the Government has maintained a dialogue, the Special Rapporteur considers it important to make full reference to its consideration of the case of Cuba.

19. Among other comments, the Committee of Experts pointed out in 1992 that the Regulations for the Application of Employment Policy, like the Labour Code, defined the labour record as a document that contains data and

particulars of each worker's job and that the employing agency is under an obligation to prepare, update and maintain the record. Yet according to resolution No. 590/1980 of the State Committee on Labour and Social Security (CETSS), distinctions which do not constitute a labour merit, but which are conferred by such bodies as mass organizations or official institutions and which express the "revolutionary attitude maintained by the worker outside his work centre" may be included in the labour record. The Committee of Experts considered that those provisions were not in conformity with the provisions of the Convention concerning the Elimination of any Discrimination Based on Political Opinion and that the inclusion in the labour record of distinctions conferred for a "revolutionary attitude" outside the labour environment might constitute discrimination. 3/

20. In its 1993 report, the Committee of Experts took note of the information supplied by the Government to the effect that the Ministries of Education and Higher Training had undertaken studies with a view to removing from the student's school record elements which did not involve academic matters and that discussions were being held on a draft regulation for the application of employment policy, which defined the content of the cumulative labour record and would indicate clearly that it could no longer contain information on merits or demerits. The Government also indicated that resolution No. 590/1980 had been repealed, and that the Government was conducting an inquiry on the internal rules that had been established by some enterprises with a view to eliminating from files all information relative to moral attitudes or social conduct of workers, which were extraneous to the employment relationship. 4/

21. With regard to the communications media, the above-mentioned article 53 of the Constitution states that material conditions for the exercise of freedom of speech and of the press are created by the fact that the press, radio, television, cinema and other mass media are State-owned or social property and can in no case be privately owned. On this basis, there is no doubt that the authorities exercise strict control over the media and that censorship is practised systematically. The Committee of Experts on the Application of Conventions and Recommendations also referred in its 1993 report to possible discrimination against journalists on ideological grounds, stating in particular:

> "In previous direct requests, the Committee had noted that section 3 of resolution No. 50, of 21 September 1987, respecting the parameters for evaluating the performance of workers in journalism includes the political and ideological scope of the work performed. The Committee noted that the outcome of the evaluation affects the wage level of the workers in question since an evaluation that is not 'positive' has the effect of lowering the worker's wages ... Section 28 provides that as a result of a non-positive biennial evaluation the employment relationship of the person concerned may be terminated. The Committee notes the Government's reply that journalists' performances are evaluated solely on the basis of their qualifications and the results of their work. Given, however, that the text of this resolution makes reference to ideological and political elements which may affect both access to, and security of, employment and conditions of employment, the Committee asks the Government to provide information, in its next report, on the

measures taken or envisaged to remove these elements from the criteria for evaluation of journalists, set forth in resolution No. 50, so as to bring it into line with the stated practice of judging performance on the sole bases of qualifications and results." 5/

22. Another form of social and political control is exercised by the direct harassment of security agents, or through arrest and sentencing in the courts for offences defined by law. Here, the most vulnerable sector is the one made up of individuals belonging to groups that have emerged, without formal legal recognition, for the purpose of defending human rights or labour union rights and in some cases for a political purpose. The Special Rapporteur sees these groups as characterized above all by their zeal to use only peaceful means to achieve their ends. In many cases, they have applied to the authorities for inclusion in the Ministry of Justice's register of associations, although the requests have as a general rule remained unanswered. At the present time, there seem to be about 100 such associations and groups, according to a list recently received by the Special Rapporteur, each of them varying in their number of members, date of establishment or orientation.

23. As for the right to establish and join trade union organizations, the Special Rapporteur mentioned in his previous report to the Commission on Human Rights 6/ that the Committee on Freedom of Association of the International Labour Organisation had examined a complaint relating, inter alia, to the impossibility of establishing independent trade unions and the monopoly exercised in that regard by the Central Organization of Cuban Workers (CTC), the official trade union, and that the Committee had formulated provisional conclusions on the case. As part of its recommendations, the Committee urged the Government to send precise observations on the failure of the Ministry of Justice to reply to the request for registration and recognition of legal personality submitted by the General Union of Cuban Workers (UGTC). In the course of its May 1993 session, the Committee took up the complaint again in the light of the reply furnished by the Government and reached the following conclusions:

"280. As regards the allegation concerning the Ministry of Justice's failure to reply to the request for registration and recognition of legal personality submitted by the General Union of Cuban Workers (UGTC) (its rules and a list of some of the members' names had been enclosed by the complainant organization), the Committee notes the observations made by the Government according to which a request for registration had not been submitted, merely a request to the Ministry of Justice for a 'certificate of recognition' that there was no association of workers with the same name in that department and that, subsequently, Mr. Gutiérrez asked the Ministry to discount the aforementioned request for registration. In the Committee's opinion, it seems that 'certificate of recognition' was requested by Mr. Gutiérrez with the express aim of being able subsequently to request 'legal registration' for the new trade union, and he thus seemingly embarked on a procedure obviously with the

aim of registering a new trade union body. The Committee observes, moreover, that from the documentation included by the Government it seems that, although Mr. Gutiérrez in effect asked for the UCTC registration application to be discounted, this was merely due to the fact that he wished to change the name of the association to the 'Union of Cuban Workers (USTC)'.

"281. In the circumstances, the Committee concludes that the General Union of Cuban Workers was set up over a year and a half ago (according to the Government, it is now called the Union of Cuban Workers (USTC)), and has still not been registered. Furthermore, although it notes that the Government's declarations concerning the UGTC's lack of representativity, the Committee must point out that the fact that an organization has only a small number of members is not a good enough reason for refusing registration. In the circumstances, the Committee once again urges the Government to make an immediate pronouncement on the registration of the General Union of Cuban Workers (UGTC) (which according to the Government is now called the Union of Cuban Workers (USTC)), bearing in mind that, under Article 2 of Convention No. 87, workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their choosing without previous authorization. The Committee requests the Government to keep it informed of any measures adopted in this regard." 7/

24. A great many of the complaints received by the Special Rapporteur concern persons, in some way linked to human rights, trade union or political groups, who indicate that they were visited by State security agents at their homes or workplaces and threatened with loss of employment, prosecution or so-called "acts of repudiation" on the part of the "rapid response brigades" and, in some cases, were assaulted in the street by unknown persons or warned to leave the country. Examples include the cases of Aida Rosa Jiménez and Asalia Ballester Cintas, of the Democratic Civic Party; Rolando González Llanes, of the Human Rights Party in Guines, who was beaten by members of the police on 24 August 1993; and René Contreras Blanch, of the Cuban Human Rights Party, who was beaten on 16 March 1993 in the centre of Havana by members of the police and suffered head injuries. On 15 January 1994, the police staked out the homes of René del Poso and Vladimiro Roca, of the Socialist Movement, in order to prevent a meeting from being held. In the view of the Special Rapporteur, the idea of allowing groups of persons without legal identity or responsibility to "administer justice" is something that cannot be accepted in any society.

25. In other cases, the persons concerned are summoned to appear before the police where they are warned or held in custody for a short period and interrogated. Threats of reprisals against the family are also frequent, as well as house searches. For example, the case was reported of Robert Trobajo Hernández, Secretary of Cuba's General Union of Workers in Havana province and member of the National Commission of Independent Trade Unions, who was arrested on 5 March 1993 in the Güira de Melena district and taken to the police station at San Antonio de los Baños, where he was held for four days before being transferred to the Department of Technical Investigations (DTI) at San José de las Lajas, where he remained for

three more days. It was also reported that he was told he would be prosecuted for the crime of enemy propaganda if he continued to oppose the regime and that he had lost his job as a result of the arrest. Rolando Roque Malherbe, a member of the Socialist Democratic Movement, was warned on 23 September 1993 not to hold in his home a meeting planned for the following day and remained in custody until 27 September: at the meeting, which was held anyway, there was an act of repudiation in which about 300 persons took part, including some State Security officials, and some of the participants in the meeting, most of them linked to human rights groups, were threatened. In connection with those incidents Félix Antonio Bonne Carcassés, coordinator of the Cuban Civic Movement, was summoned on 27 September 1993 to the police station at Río Verde, Rancho Boyeros municipality, and later taken to the DTI detention centre at the intersection of 100 and Aldabó.

26. Other cases reported are the following: various members of the National Council for Civil Rights in Cuba and the Cuban Human Rights Party (Lázaro Fernández Hidalgo-Gato, Enrique López Valdés, Pedro Pablo Guzmán Cabrera, Sergio Rodríguez Valle, Sergio Llanes Martínez, Alcides Aguilar), were arrested in early November 1992 at San Antonio de los Baños. Omar Moisés Ruiz Hernández was interrogated for three days in July 1992 at the Santa Clara State Security headquarters in connection with complaints that had been sent abroad concerning Cuba's problems. Carlos Cordero Páez, a member of the National Council for Human Rights, was arrested on 5 October 1992 when, at the entrance to the Havana Provincial Court where the trial against Sebastián Arcos Bergnes was to be held, he displayed a placard with the words "Freedom for Sebastián Arcos"; he was beaten and taken to the police station at the intersection of Cuba and Chacón, released at about 11 p.m., once the trial had ended. Ana Daisy Becerra, a member of the Committee of Mothers for Granting Amnesty to Political Prisoners, was arrested on 13 December 1992 and taken to the Picota police station in Old Havana and was threatened with prosecution for enemy propaganda because complaints about human rights violations in the Combinado del Este Prison had been found in her home. Paula Valiente, President of the Association of Mothers for Dignity, was interrogated several times in 1992 and 1993 and threatened because of her activities in connection with political prisoners and for reporting human rights violations abroad; other members of her organization such as Hilda Cabrera, Berta Galán and Victoria Cruz and members of her family have also been threatened and interrogated. María Valdés Rosado, coordinator of Democratic Civic Action, and Alicia Suárez, of the Cuban Christian Democratic Movement, were arrested in Havana on 7 May 1993 and released two days later. Caridad Duarte Gómez, of the Organización Juvenil Martiana, was interrogated for several hours on 4 August 1993 at the municipal police station of Old Havana and on 19 May 1993 at the Picota and Paula station. Vivian Pérez Medina and Gisela Estévez Martínez, of the Cuban Foundation for Human Rights, were arrested on 5 August 1993, in San José de las Lajas and held for several hours at the police station where they were threatened and forced to sign warnings. Raúl Valderrama Martínez, Secretary-General of the Foundation for Human Rights, was arrested on 17 November 1993 in San José de las Lajas and taken to the municipal police station, where he was interrogated in connection with an interview he had given to a foreign journalist a few days earlier, accused of spreading false news and threatened; he was released two days later; he had already been arrested on 15 July 1993 and released three months later. Lázara Herrera Portel, wife of the Democratic Civic Front member,

Eugenio Rodríguez Chaple, was arrested in Havana on 23 November 1993 and taken to the police station in Capri, where she remained for 72 hours; on 2 December 1993, Mr. Rodríguez Chaple himself was threatened and beaten up in the street by persons who took his identity card away from him; where a few weeks earlier, he had been a victim of an attempt to run him down by persons driving past in a vehicle who shouted threats at him. Carlos Goicolea, Manuel Sánchez, Argelio Reyes and Leonardo Calvo, members of the Socialist Democratic Movement, were summoned to police stations on 12 January 1994 and received warnings in connection with their political activities.

27. In another group of cases the persons concerned were tried and sentenced to prison terms of varying lengths. According to reports, during the first stage of the investigation, the detainee is often held on security police premises for several months, sometimes in sealed cells from which he is taken only to be repeatedly interrogated at any time of day or night, with extremely limited access to visits from his family or lawyer. The Special Rapporteur received information recently on the following specific cases, some of which occurred in 1992:

(a) Pablo Reyes Martínez, a member of the National Civic Union, was sentenced in October 1992 by the Havana Provincial Court to eight years of imprisonment and confiscation of all his property for the crime of enemy propaganda because, according to the verdict, he had engaged in "the dissemination of false information about alleged human rights violations in Cuba and other economic aspects, reflecting negatively on the masses, which had been provided to him by various discontented people and not verified by the accused, and were clearly designed to discredit the work of the revolution, and the prestige of its leaders, and ultimately to undermine the economic, political and social foundations of our system";

(b) Luis Enrique Grave de Peralta Morel, a former professor of physics who was expelled from the Oriente University for having left the communist party, and Arquímedes Ruiz Columbié, Robier Rodríguez Leiva and Carlos Orue Caballero, researchers of the Cuban Academy of Sciences, were arrested on 13 February 1992 in Santiago de Cuba in connection with the establishment of a political movement called "New Generation" that was critical of government policy. For the crime of rebellion they were later sentenced to 13, 8, 10 and 8 years of imprisonment, respectively;

(c) Bárbara Celia González Toledo, a qualified economist and public accountant, was convicted of contempt on 15 July 1992 by the Ciego de Avila Provincial Court and sentenced to 18 months of imprisonment and loss of employment for having expressed critical views in private about the country's leaders;

(d) Juan José Moreno Reyes, Luis Reyes Reynosa, Benigno Raúl Benoit Pupo, Eduardo Guzmán Fornaris, Enrique Chamberlays Soler, Lorenzo Cutiño Bárzaga, Adolfo Durán Figueredo, Wilfredo Galano Matos, Rafael Rivera Matos, Maritza Santos Rosell, Ramón Mariano Peña Escalona and Ramón Fernández Francisco were sentenced to prison terms of between 5 and 13 years for crimes of rebellion and other acts against State security in March 1993 by the Santiago de Cuba Provincial Court. The acts for which they

were charged involved holding meetings and printing and distributing flyers in various municipalities of Holguín province criticizing the Government. Seven other people received sentences of between one and two years in relation to the same incidents;

(e) Juan Francisco Fernández González, a doctor, was arrested on 18 March 1992 in Havana and tried for the crime of enemy propaganda. During the trial, held on 15 December 1992, the charges were changed to rebellion and he was sentenced to 10 years of imprisonment. In the course of one year, the place of detention was changed no less than six times. In the same case, the Havana Provincial Court also sentenced Eduardo Prida, a qualified psychologist, and Mario Godínez, an electrician, to 15 and 12 years of imprisonment, respectively;

(f) Amador Blanco Hernández, President of the José Martí National Human Rights Commission, was arrested on 10 December 1992 at his home at Caibarien, Villa Clara, and taken to the State Security Department at Santa Clara. He was charged with enemy propaganda along with Joel Mesa Morales, Vice-President of the Commission, who was arrested on 26 January 1993, and they were sentenced in September 1993 to eight and seven years of imprisonment, respectively, by the Villa Clara People's Provincial Court. In his provisional conclusions, the prosecutor mentioned among the charges that the accused "had been engaged in a propaganda campaign in order to discredit the Cuban revolution through the collection of numerous false complaints, consisting of alleged maltreatment and physical attacks, persecution, injuries and threats to various persons and prisoners by members of the Ministry of the Interior in general and military and rehabilitative personnel at the penitentiary centres in particular, sent through different channels to different subversive outlets". In 1982, Mr. Blanco Hernández had been dismissed from his post as professor at the Central University of Las Villas for having been critical of government policy;

(g) Angel Prieto Méndez, a retired Cubana de Aviación pilot and founder of the Martí Association for Opposition to the Regime, was arrested on 26 December 1991 and accused of enemy propaganda and contempt. On 6 January 1993, he was tried and sentenced to 10 years' imprisonment. At present, he is serving his sentence in Guanajay Prison;

(h) Alfredo García Quesada, electrician and student at the University of Camagüey, was arrested on 23 April 1993 in the Guayabal district, Las Tunas, for distributing flyers reading "Down with Fidel" and for painting those words on the body of a white horse. He is now serving a five-year term in the prison at Típico de Las Tunas;

(i) Adriano González Marichal, of the Pacifist Solidarity and Peace Movement, was arrested on 6 January 1992. During the trial held in September 1993, he was accused primarily of maintaining contacts with Cuban organizations abroad and was sentenced to 12 years' imprisonment for enemy propaganda;

(j) Luis Felipe Lorens Nadal, President of the Organización Juvenil Martiana, was arrested on 22 September 1993 in Havana. A few days later, he was brought to trial and sentenced to four years' imprisonment for antisocial behaviour, having been accused of inciting the workers at the Comocoiba Hotel and of not working. At present, he is serving his sentence in Combinado del Este Prison.

28. The Special Rapporteur was also informed of the following cases of persons who were formally accused of enemy propaganda or similar crimes who at the time the information was received, were being held in custody pending trial: Luis Gustavo Domínguez Gutiérrez, from the group Peace, Progress and Liberty, accused of enemy propaganda because he sent a letter to the Government in which he renounced the medals awarded to him for his participation in the Angola campaign; Pedro Armentero Lazo, imprisoned in the Combinado del Este Prison; Orfilio García Quesada, held in El Guayabal district, Victoria de las Tunas, in May 1993 for having participated in a process of collecting signatures calling for political change; Roberto Alvarez San Martín, a well-known writer and journalist, banned from practising his profession in February 1992; Domiciano Torres, a former professor of architecture, who was expelled from his department at the Armando Mestre de Guanabacoa Technological Institute in 1992, and vice-president of the Democratic Civic Party, arrested on 13 August 1993 and taken to the State Security offices at Villa Marista, where he was held for 42 days; at the time of his arrest, he is alleged to have been brutally beaten; later, he was transferred to the Havana Psychiatric Hospital; the latest information received indicated that he was awaiting trial in El Pitirre Prison in San Miguel del Padrón district, Havana City.

29. The Special Rapporteur was also informed that, in 1993, a great many persons were sentenced to one to four years' imprisonment under the provisions on anti-social behaviour, particularly young persons accused of involvement in disturbances of public order. It was also reported that the trials in such cases did not offer minimum guarantees of the right of defence and that the accused were sentenced almost systematically in trials held only a few days after their arrest had taken place. Newspaper sources indicated that, from late August to early November 1993, about 2,500 persons had been sentenced on such grounds. 8/

30. In connection with proceedings in cases with political connotations, the Special Rapporteur received information on the role of attorneys stating that their basic duty is not to defend the interests of their clients, as these are subordinated to the interests of the system. Persons who had been sentenced for political offences told the Special Rapporteur that they met their defence attorney only at the time of their oral hearing and that the defence consisted only of presenting some standard mitigating circumstances rather than proving the innocence of the accused, who could always be certain in advance that he would be convicted. They also said that, in a large number of cases, neither the person concerned nor his family received a copy of the verdict and sometimes not even the accusation, so that, at the time of the trial, the accused had only the oral version given by the investigating authority, that is, under the Cuban procedural system, the police, with respect to the legal characterization of the offences he was accused of. Similarly, articles 160 and 161 of the Code of Criminal Procedure, which refer to the form in which a

statement by the accused is to be taken during the preparatory phase of the procedure in the appropriate police unit, do not give the accused the right to make a statement in the presence of a defence counsel, whether of his choice or assigned.

31. On a number of occasions, the Special Rapporteur received complaints about the way in which trials for offences against State security are conducted: discriminatory treatment of the witnesses for the defence and the prosecution, an excessively aggressive attitude on the part of the prosecutor and an obvious lack of impartiality by the judge in the conduct of the hearings seem to be habitual practices.

32. In addition to the measures referred to above, loss of employment is also common, often accompanied by threats and campaigns to discredit the victim. This measure creates particular problems for people who are unable to find any other work corresponding to their qualifications, because the State is the sole employer; the entire family unit then suffers the consequences. The following are some of the cases communicated to the Special Rapporteur:

(a) Rolando Díaz Acosta, expelled in October 1992 from his post in José Martí National Library, in 10 October District, for being one of a group of intellectuals who signed a letter to the Heads of State and Government at the Second Ibero-American Summit in which they drew attention to the need for changes in the country. For the same reason, he was also evicted from the house where he lived;

(b) Guillermo Fernández Donates, expelled in October 1992 from his civil engineer's post in Construction Project Company No. 2 in Havana for revealing his membership in the Corriente Cívica and the Cuban Committee for Human Rights; in February 1993, he was also expelled from Havana University where he was a law student and from the sports centre he frequently visited. His wife, Euridice Sotolongo Losada, was forced to resign from the same technical centre;

(c) Heriberto Alejandro Bario Lorences, expelled from his engineer's post at the Havana Institute for Sugar Projects in June 1992 for sending information abroad concerning the arrest of his colleague, Mariano Gort, on a charge of disseminating enemy propaganda;

(d) Leonardo José Rodríguez Pérez, expelled from his research post at the Havana Centre for Metallurgical Research in January 1993 for signing the above-mentioned letter to the Ibero-American Summit.

33. The Special Rapporteur also received information on the following cases of university professors expelled under Decree-Law No. 34/1980, which enables the heads of the Municipal Departments of Local People's Power Organizations to dismiss staff members from institutions of higher learning on the grounds of activities contrary to socialist morality and the ideological principles of society:

(a) Reinaldo Cosano Alén was expelled from his teacher's post in the "Jésus Suárez Gayol" faculty of Guanabo in Havana in September 1992 for his work with the Cuban Committee for Human Rights. In the official document

confirming his expulsion, Mr. Cosano's activities are rated inappropriate for the work of an educator since they may have serious repercussions on the training of Cuban children and young people;

(b) Ramón Rodríguez Ríos lost his teacher's post at a centre in San Antonio de los Baños and was generally disqualified from the teaching profession in 1992 after it was confirmed, according to the resolutions on expulsion, that "he was a full member of a human rights group", this being deemed "contrary to socialist morality and the principles of our society";

(c) Félix Díaz Cáceres, a physical education teacher at Pinar del Río, was expelled from his post in May 1992 for openly opposing the expulsion of a group of university professors from their posts because they had written a declaration of principles in which they asked for political changes; 9/ on 3 August 1992, he was summoned to State Security premises where he was interrogated about the "Open letter of Cuban professionals to the Ibero-American Summit"; in September, he was arrested and spent 18 days in the State Security Department at Pinar del Río on charges of disseminating enemy propaganda.

34. It is the opinion of the Special Rapporteur that these recent expulsions are not in keeping with what was indicated by the Committee of Experts on the Application of Conventions and Recommendations of the International Labour Office in its investigation of the application of Convention No. 111 (Discrimination in respect of Employment and Occupation), included in its 1992 report:

> "The Committee takes note of the Government's declaration whereby the provisions of decree-law No. 34/1980 ... do not have practical application today. The Committee hopes that, as indicated by the Government, these provisions will be harmonized with the Convention at the time revision of the above laws is begun. Furthermore, the Committee again asks the Government to supply the text of attached resolution No. 2, dated 20 December 1989, from the Ministries of Education and Higher Education dealing with the reinstatement of workers in the teaching field to whom decree-law No. 34/1980 was applied". 10/

In its 1993 report, the Committee again requested the Government to provide a copy of resolution No. 2, dated 20 December 1989. 11/

C. The right to enter and leave the country

35. According to information received, in recent years the Cuban authorities have relaxed the restrictions on foreign travel by Cuban citizens, for example by lowering to 20 the minimum age for travel; however, many limitations still remain. Generally speaking, the right to leave and return to one's own country, embodied in article 13 of the Universal Declaration of Human Rights, is not recognized. All persons wishing to leave the country, either temporarily or permanently, are required to obtain an exit permit from the Ministry of the Interior, a permit which is issued on a discretionary basis.

36. With regard to cases of family reunification, the wives and children of ordinary citizens who leave the country temporarily, but subsequently remain abroad, normally obtain authorization to join their relatives. However, in the case of citizens who occupied posts regarded as sensitive or who have been openly critical of the system, their families are frequently refused such authorization. In this connection, reports have been received of the cases of Nydia Cartaya Medina and her four daughters, who have been refused exit permits ever since her husband, a former serviceman, obtained asylum in the United States in 1985; similar cases include those of Dalgis Nelson Ginarte and her daughter, Indira Lázara Martínez Nelson, from Santiago de Cuba, who have visas to join their husband and father in the United States, and Marelis Mena García and her daughter Marel Franquiz Mena, the wife and daughter of a nuclear physicist.

37. Even in cases where persons do obtain permission to emigrate, they are frequently subjected to reprisals as a result of their application, such as dismissal from their job, demotion, expulsion from educational institutions or confiscation of their ration book. In addition, the property of the persons in question, such as housing, furniture and cars, is taken over by the State.

38. Apart from these situations, there are others in which human rights activists - some of them in prison - are harassed by the authorities to leave the country. In this connection, reports have been received of cases such as those of Sebastián Arcos Bergnes and Yndamiro Restano, mentioned later, Rodolfo González González of the Cuban Committee for Human Rights and Félix Fleyta Posada of the Free Art Association, who is serving a sentence in Agüica prison. In the case of Francisco Chaviano González of the National Council for Civil Rights in Cuba, authorization for his children - who hold visas for entry to the United States - to leave the country has been made conditional on Mr. Chaviano's leaving the country also.

39. The stream of people trying to leave the country illegally by any means continues unabated. According to some sources, approximately 25 people a day make the attempt; as a rough estimate, only one in four succeeds; two, facing physical danger or arrest, are forced to return; and one is killed in the attempt. According to another estimate, 2,500 people reached the United States coast in this way in 1992 and about 3,000 in 1993. The sources consider that, although political reasons have some significance, the main cause of this emigration is the economic situation, with its concomitant lack of opportunity and options. As a result, during the past few years, the number of people attempting to emigrate has risen significantly. In view of the enormous risk to life which this entails, the Special Rapporteur does not favour people abroad encouraging Cubans to attempt this method of leaving the country.

40. Reports have also been received of Cuban coastguard patrols firing repeatedly on people trying to reach the United States naval base at Guantánamo by sea, and sometimes even by land, in order to seek asylum, as in the case of Ismar Torres Pérez, a young man who was shot dead on 8 August 1993. According to those sending in the reports, this policy should be all the more strongly criticized because the use of force is both excessive and unnecessary when arrest is the only purpose. Cases of excessive force used at other points on the coast against people trying to leave the country

by their own means have also been reported, along with cases of boats arriving from abroad and approaching the Cuban coast in order to pick up Cuban citizens. Thus, on 1 July 1993, frontier guards shot dead Alfredo Evelio Caballín Marín, Loamis González Manzini, aged 16, and Mario Horta while, together with other persons, they were trying to reach a United States boat off the coast at Cojímar. On 15 October 1993, Luis Quevedo Remolina, aged 23, was killed when he was caught by frontier guards while, together with seven other young men, he was trying to leave the country in a raft at Regla; according to the report, death was caused by the many blows he received immediately after his arrest; the men were also shot at when they were noticed.

41. Persons arrested while trying to leave the country continue to be prosecuted under article 216 of the Criminal Code. Moreover, the act of accumulating over time material to be used for leaving the country and transferring it to a prearranged place is considered a crime. Some of these cases were reported to the Special Rapporteur, for example, that of Alejandro Joaquín Fuertes García, sentenced on 10 May 1992 to five years' deprivation of liberty for illegal exit by the provincial court of Santa Clara after a trial at which his defending attorney was not present. At the time of his arrest by security agents of Santa Clara State, he was severely beaten, suffering, among other things, kidney damage and reduced vision in one eye.

42. Lastly, the Special Rapporteur considers positive the action taken by the Cuban authorities to increase the number of Cuban citizens residing abroad who can visit the country. Although in the past only 90 visas per week have been granted, apart from the humanitarian visas granted in cases of grave illness or death in the family, under the new measures announced at the end of July 1993, the Cuban authorities may issue 100 tourist day visas to Cubans who left the country more than five years ago.

III. CONDITIONS IN THE PRISONS

43. It is reported that the food and hygiene situation and the lack of medical attention continue to be alarming and have created many health problems affecting the prison population. Anaemia, diarrhoea and skin and parasite diseases as a result of contaminated water seem to be common ailments in most prisons and, in some, like those of Manacas and Combinado del Este, cases of tuberculosis have been recorded. This situation has caused the death of some prisoners, including: Alcides Pérez Rodríguez, imprisoned before trial in Ariza provincial prison, who died on 5 March 1993 in Cienfuegos provincial hospital as a result of a generalized infection; Juan Enrique Olano Pérez, who was serving a two-year term in Quivicán prison and who died in Hermanos Ameijeiras hospital, to which he was taken when he was already in a critical condition; and Junior Flores Díaz, a 17-year-old inmate in Valle Grande prison in Havana, who died on 12 December 1993 after having been refused medical attention and having been beaten and kept in a punishment cell.

44. Prisoners who have protested in some way against their treatment or who have refused re-education, meaning - according to the information received - political and ideological instruction, have also been subjected to reprisals such as beatings, confinement in punishment cells (which are extremely small,

have sealed doors and in which the prisoner can remain for months without seeing daylight), transfer to another prison, usually far from his family's place of residence, suspension of family visits or denial of medical treatment. Thus there are cases such as those of Luis Alberto Pita Santos, President of the Association for the Defence of Political Rights, held in Kilo 8 prison in Camaguey, who was struck repeatedly to force him to wear the uniform and chained for long periods to the bars of his cell; before his transfer to that prison, early in 1993, he had been in Boniato prison in Santiago de Cuba, where he appears to have spent several months in punishment cells and was beaten in December 1992, as a result of which his arm was fractured. His cell-mate, Jesús Chambes Ramírez, was also beaten in the same incident, suffering a broken cheek-bone and bruising to several parts of his body. It has also been reported that some prisoners have been transferred or confined to punishment cells because written complaints about prison conditions had been discovered, as in the case of Arturo Suárez Ramos, a member of the Cuban Committee for Human Rights, who was transferred from Combinado del Este prison to Boniato and confined to a punishment cell for complaining about the condition of the prisoners. Carlos Alberto Aguilera Guevara, Roberto Mures, Luis Grave de Peralta, Jesús Chambert, Ibrán Herrera Ramírez, Enrique González, Rodolfo Guitiérrez and Robier Rodríguez were held in Boniato prison, beaten and transferred to Kilo 8 maximum security prison in Camaguëy on 12 February 1993 for engaging in a hunger strike in protest against their ill-treatment. In early October 1993, Carlos Aguilera, Jesús Chambert, Rodolfo Gutiérrez and Roberto Mures were severely beaten for protesting about prison conditions and kept in solitary confinement. Reports have also been received of the cases of Tomás Córdova and Hibraín Odelín Hardin, inmates in Micro 4 prison in Alamar, Havana City, who were brutally beaten by several guards on 30 October 1993, as a result of which Mr. Odelín suffered a perforated eardrum; and the case of Junior Flores Díaz, a 17-year-old inmate in Valle Grande prison in Havana, who died on 12 December.

45. The Special Rapporteur has received material complaining of the use of psychiatry for other than strictly medical purposes, but does not have enough solid information to state that this takes place. On the other hand, the Special Rapporteur, in his conversations with former prisoners, observed that a fear of being subjected to this kind of treatment seems to exist among the prison population.

46. The number of persons serving sentences for political offences is difficult to estimate. Some sources place the number between 2,000 and 5,000 persons, including those sentenced for illegal departure. The Cuban Committee for Human Rights gave the Special Rapporteur a list of 602 prisoners who were serving sentences in 1992 for political offences. Of those, 342 were sentenced for the offence of disseminating enemy propaganda, 83 for sabotage, 31 for piracy, 52 for contempt, 15 for terrorism, 14 for espionage, 14 for offences against State security, 16 for rebellion, 15 for illegal association and the remainder for miscellaneous offences. A small number of prisoners were released in 1993 on condition that they leave the country. Others, such as Sebastián Arcos Bergnes, who is serving a sentence of four years and eight months in Ariza prison, Cienfuegos, and Yndamiro Restano, President of the Harmony Movement, who was sentenced to 10 years, have refused the offer.

IV. CONSIDERATIONS CONCERNING THE ENJOYMENT OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

47. The report of the group of ambassadors who visited Cuba pursuant to Commission on Human Rights decision 1988/106 sums up the comments made by representatives of the Government of Cuba on the enjoyment of economic, social and cultural rights in that country. The Special Rapporteur duly recalls some of those comments:

> "The Minister of Labour explained to the group that the State guaranteed to all Cubans the right to work. There was no unemployment in Cuba and the social security system protected mothers, children and elderly people and looked after people who were temporarily or permanently sick or injured.
>
> " ...
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> "In his meeting with the group, the President of the Council of State said that the achievements of the Revolution in the social sphere had been outstanding and that, as a result of the efforts made by the regime in the areas of preventive medicine, mother and child care, and nutrition, his Government had over the last 30 years saved the lives of approximately 300,000 children who would not have survived if substantial changes in Cuban social policy had not been introduced. He compared the experience of Cuba in this area with that of other countries of the third world, where as a result of the unjust international economic order many children were dying of starvation every day.
>
> " ...
>
> "The Minister of Health said that average life expectancy was currently 74.6 years (as compared with 58 years in 1965 and 52 years in 1959), which placed Cuba on a level comparable with that of many developed countries. He mentioned that other achievements in the area of public health were the treatment of contagious diseases, advances in the area of nutrition and the eradication of malaria, diphtheria, tuberculosis, polio, meningitis and tetanus in children and other common infantile epidemics, with a consequent drastic reduction in infant mortality. ... He also mentioned that those efforts with respect to health would have failed if adequate attention had not been paid to the training of future doctors, nurses and specialized technical staff. Other indications of the efforts being made by the regime in the area of health was the current encouragement to applied scientific research, especially in the spheres of genetics and tropical diseases, and promotion of the industrial production of medical equipment.
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> "In his meeting with the group, the Minister of Education [said that] ... the school-attendance stage ran from 6 to 16 years of age. The figure for children of those ages enrolled was 93 per cent, rising to 98 per cent for the 6 to 12 category. The whole school system was compulsory and free of charge.

"With regard to university education, the Minister of Higher Education informed the group that there had been 15,000 university students in Cuba in 1959, 35,000 in 1971 and 85,000 in 1976; the current figure was 310,000, or 3 per cent of the total population." 12/

48. Certain statistics in the Human Development Report 1993 issued by the United Nations Development Programme (UNDP) confirm some of the data given by the Cuban authorities:

(a) Life expectancy at birth for 1990 was 75.4 years as against 63.8 in 1960;

(b) Infant mortality (per 1,000 live births) was 14 infants in 1991 as against 65 in 1960;

(c) The percentage of the population with access to health services (1987-1990) was 100 per cent, in both urban and rural areas;

(d) The number of inhabitants per doctor (1984-1989) was 530;

(e) The adult literacy rate for 1990 was 94 per cent as against 87 per cent in 1970;

(f) The combined primary and secondary school-enrolment rate (1987-1990) was 95 per cent as against 76 per cent in 1970.

49. A report prepared and sent to the Special Rapporteur by the Cuban Christian Democrat Party (PDC) abroad takes stock of the achievements of recent decades in the social sector, which most of the population see as a positive factor.

50. In the educational sector, the report mentions that the Cuban Government has managed in 33 years to set up an educational infrastructure. Day-care centres, schools, secondary schools, pre-university institutions, technical institutes and universities exist throughout the country. Teachers have been trained in large numbers, and a series of laws have been put in place that foster education as one of the basic tasks of the Government. Furthermore, education is virtually free of charge.

51. In the health sector, the PDC report indicates that the Cuban Government has created a country-wide infrastructure, as concerns not only hospitals but also the training of doctors, nurses and all health personnel. However, many of the achievements, such as the low infant-mortality rates, the high life expectancy and the eradication of diseases, are being severely compromised by the economic crisis in Cuba. Surgical equipment is one of the items most affected. Only emergency operations are being carried out and there is a shortage of medicines and laboratory materials. The shortage of medicines and poor nutrition are producing vitamin deficiencies and serious nutritional deficiencies.

52. In the social security sector, the report recalls the adoption in January 1980 of Act No. 24, which set up the social security system, consisting of two parts: the social security system and the social welfare

system. The former offers protection to workers in case of ordinary or on-the-job illness or accident, maternity, disability and old age. If a worker dies, his family is protected. The social welfare system gives special protection to the elderly, persons incapable of working, and in general all whose essential needs are not ensured or who need protection because of their living or health conditions. Some of the benefits established include:

(a) Old-age pension, to which men are entitled at the age of 60 and women at 55;

(b) Disability pension;

(c) Death benefit; to which are entitled widows, widowers over 60 or incapacitated widowers who were dependent on the deceased worker, children, including adopted children, under 17, parents, including adoptive parents;

(d) As to women's benefits, 18-week paid maternity leave established by law for working mothers.

53. The same report indicates that, as the Cuban authorities stated, the social security system has remained unchanged despite the present economic crisis.

54. The Special Rapporteur believes that the observations contained in both the report of the visiting mission to Cuba in 1988 and the report of the Christian Democrat Party generally convey the feelings of a large part of the population, which recognizes that in the last 30 years the Government has made efforts and achieved substantial progress in promoting and protecting economic, social and cultural rights. The economic crisis the country is experiencing at this time might unfortunately be a factor in determining whether the progress can be sustained. The Government's political will to preserve the people's social welfare benefits seems to be steadfast; however, the lack of adequate resources makes it a real possibility that the system will not be able to continue functioning as hoped.

55. The reforms in the Cuban economy introduced primarily during the past year include the promotion of direct foreign investment, the increased cooperativization of agriculture, permission to engage in small private family businesses, and the possibility of receiving and using foreign currency. These measures are intended to strengthen the balance of payments and to increase the supply of goods and services for the population as a whole.

56. Additional measures on the same lines are essential and appear to be under way, with a view to developing an economy capable of meeting the basic needs of the population.

57. In the present circumstances, the parallel economy which has arisen primarily through the free movement of currency and the tourist sector is causing substantial changes in the distribution of incomes. Given the Cuban pattern of relative equality in the economic and social sphere during the past few decades, this undoubtedly involuntary effect of the economic programme, together with growing unemployment, could give rise to social tension.

58. The economic reforms are being curbed by ideological and political factors, in particular by deep suspicion of anything that entails limitation of governmental control. In addition, the economic, commercial and financial embargo maintained by the United States is curbing greater liberalization of the economy. Apart from impeding and dramatically increasing the cost of the reforms, the embargo against Cuba is creating political barriers to more far-reaching action and more immediate results, at a time when the urgent reactivation of the economy is necessary from a humanitarian standpoint and, in the final analysis, from a human rights perspective. The questions relating to the effects of the embargo from the standpoint of international law were dealt with by the General Assembly of the United Nations in its resolution 48/16 entitled "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba".

V. INFORMATION RECEIVED FROM INSTITUTIONS AND ORGANIZATIONS BASED IN CUBA IN ACCORDANCE WITH CURRENT LEGISLATION

59. The Special Rapporteur received letters from a number of organizations and institutions inside Cuba commenting on various aspects of the human rights situation there and on the content of the report submitted by the Special Rapporteur to the Commission on Human Rights at its forty-ninth session. These letters are summarized below.

60. The Cuban National Union of Jurists stated, with regard to the above-mentioned report, that the entirety of the Universal Declaration on Human Rights had not been taken into account when analysing the non-fulfilment of its provisions in Cuba. Of its 30 articles, only those relating to the right of everyone to freedom of movement and to leave and enter the country; the right to freedom of thought, conscience and religion; the right to freedom of opinion and expression; and the right to freedom of assembly and peaceful association, as well as conditions in the prisons, were considered. However, the analysis of human rights in any country must cover them all; otherwise the conclusions reached are incomplete and do not adequately reflect reality. Furthermore, the focus used for analysing fulfilment of the aforesaid rights was applied without regard for the climate of hostility which the United States has been imposing on Cuba for the last 34 years, the economic embargo being the fundamental reason for the adverse living conditions experienced by the Cuban people, and taking as valid unreliable information sources or sources based on rumours and speculation by the Miami-based media hostile to Cuba or others which are supposedly based in Cuba, but have no legitimacy, credit, membership or prestige.

61. The Special Rapporteur also received a letter from Cuba from the so-called Felix Varela Centre, commenting that the Rapporteur's report made no mention of the historic context within which the Cuban political system emerged and developed and, in particular, the continued United States aggression over 35 years. Cuban intransigence could thus be explained by the people's rejection of the idea of a possible loss of their independence and restoration of the former status quo. This organization wonders what legitimacy can attach to a policy which, in the name of "restoring" the Cuban people's civil and political rights, decides to deprive them of their economic, social and cultural rights and whether it would not be more appropriate to free the people from all outside pressure and give them, with

full respect for their self-determination, the material and spiritual assistance whereby they can make their own choice. The Special Rapporteur's report, far from contributing to human rights in Cuba, fosters their violation in two ways: overall, because it does not denounce the United States policy of genocide against the Cuban people and, in individual cases, because it encourages rejection and intolerance, thereby making more difficult the climate of tranquillity needed for any exercise of self-criticism.

62. The Cuban Movement for Peace and Sovereignty of Peoples stated that, as far as civil and political rights are concerned, the Cuban revolution has created a deep-rooted and wide-ranging democracy based on the direct and systematic participation of all the people in making and implementing decisions and in electing leaders at all levels, from the almost 14,000 district representatives, nominated and elected at the grass roots, to the members of the National Assembly of People's Power and the organs of the State. In Cuba, there is no police repression, or paramilitary gangs, or persons imprisoned without having been tried and sentenced by competent courts on the basis of laws promulgated before the offences are committed, and not including any that relate to political ideas or religious beliefs. While torture, assassinations, disappearances, etc. are rife throughout the world, in Cuba not a single case can be cited of an act of that kind having occurred over more than three decades of revolution. Nor is there a single case of discrimination in Cuba on any grounds. Furthermore, one characteristic of the revolutionary process is the effort towards social, economic and cultural development, aimed at attaining that quality of life repeatedly referred to by the General Assembly in its analysis of the right to development. All attempts at development are hampered by the economic, trade and financial embargo imposed on Cuba by the United States for more than 30 years and condemned by the United Nations General Assembly as well as by many Governments and such bodies as the European Parliament, the European Economic Community, the Latin American Group of Eight and the Third Ibero-American Conference of Heads of State and Government.

63. The Federation of Cuban Women also referred to the embargo, noting that it has caused stringent food rationing and a shortage of products for cleaning and personal use that seriously affect the daily lives of Cuban families. The inclusion of such sensitive categories as food and medicines gravely impairs the people's levels of health and social well-being. Another aspect from which to judge the effects of the embargo is the refusal of visas. On many occasions, members of the Federation invited to the country by universities and women's groups and organizations have been refused entry by the United States Government.

64. The Solidarity Organization of the Peoples of Africa, Asia and Latin America sent the Special Rapporteur a letter giving a brief history of the United States economic embargo against Cuba, an embargo which they claim has caused the Cuban people material losses of more than 40 billion dollars, and including references to acts of military aggression, terrorism and other crimes. The letter also referred to the following aspects of the accomplishments of the revolution in Cuba: the right to life is guaranteed, so much so that if Cuban public health standards were to prevail in Latin America, the lives of 500,000 children a year could be saved. Cuba has more teachers per capita than any other country in the world. Ninety-five per cent

of children have been immunized. Diseases such as poliomyelitis, diphtheria, tetanus, whooping cough, etc., have been eradicated and tuberculosis considerably reduced. The social security system guarantees retired persons the right to a decent old age. Illiteracy has been wiped out. The education budget is 20 times larger than in the previous period and the public health budget 50 times larger than before the revolution. In all the history of the revolutionary period in Cuba, there has been no case of torture or forced disappearance. Voting is not compulsory, but nevertheless 99 per cent of the voters take part in the elections. Women make up 40 per cent of the country's workers and 60 per cent of medium and higher-level technicians. Now that Cubans have been made the owners of their houses, evictions have been eliminated in the towns and, now that the peasants own their land, dispossession has been eliminated in the countryside. It took the United States 69 years to raise life expectancy from 60 to 70 years; Cuba, thanks to revolution, did it in less than half the time, attaining a life-expectancy of 76 years for Cubans.

VI. CONCLUSIONS AND RECOMMENDATIONS

65. The Government of Cuba still refuses to accept the Commission on Human Rights decision to continue monitoring human rights conditions in that country and rejects all cooperation with the Special Rapporteur. In this connection, appendix II contains the statement made by the Permanent Representative of Cuba to the United Nations on 29 November 1993 during the forty-eighth session of the General Assembly. The Rapporteur once again calls upon the Government of Cuba to modify this stance and to enter into an open and direct dialogue on the circumstances and specific cases described and presented in his reports and on any other aspect of the human rights issue. He also calls on the Government to afford him the opportunity to visit the country, as is customary for those fulfilling the mandates of the Commission on Human Rights.

66. The Special Rapporteur, however, received during 1993 communications from organizations and institutions based in Cuba in accordance with current legislation. The basic content of the communications is included in this report (paras. 59-64). The statements of these organizations focus on successes achieved in the social and educational sector, but also refer to the United States economic, commercial and financial embargo on Cuba as the fundamental reason for the economic shortfalls and lack of room for political reforms.

67. The present report concentrates foremost on analysing reports received concerning conditions in the areas of civil and political rights and describes specific cases of violations and some matters relating to the constitutional and legal framework. In connection with the latter, the Special Rapporteur observes that the Constitution in force in Cuba is based, as stated in its preamble, on the political and social ideas of Marx, Engels and Lenin. Like Cuba, many other countries have constitutions formulated on a more or less clearly defined ideological basis. It is not, however, the task of the Special Rapporteur to express opinions on this question; his mandate is confined to analysing the consequences for human rights and fundamental freedoms of the interpretation and implementation of the Constitution by the authorities - in this case Cuban. In this connection, the criticism is based,

primarily, on the lack of opportunity for citizens to channel and defend their interests and opinions in cases in which the latter do not coincide with the line authorized and maintained by the forces in power.

68. The report also refers in detail to the investigation carried out by the ILO Committee of Experts on the Application of Conventions and Recommendations and the Committee on Freedom of Association concerning the implementation of different conventions in Cuba, not only because of their fundamental relevance, but also because they are organs with which the Government has maintained a dialogue. In addition, some economic and social development data, based on information supplied to the United Nations by government sources, have been collected: the most recent Human Development Report compiled by the United Nations Development Programme, reports from non-governmental sources and communications from Cuba transmitted by the above-mentioned institutions.

69. Taking into account all the foregoing, the Special Rapporteur considers it necessary to recommend to the Government of Cuba that it should adopt measures to:

(a) Ratify the principal human rights instruments to which Cuba is not a party, in particular, the Covenant on Civil and Political Rights with its additional protocols and the Covenant on Economic, Social and Cultural Rights;

(b) Cease persecuting and punishing citizens for reasons relating to freedom of peaceful expression and association;

(c) Repeal all those legal provisions which entail discrimination between citizens on political grounds, in particular in the labour and education sectors, and redress as far as possible abuses committed in this area in the past, for example, by re-employing persons who have been dismissed in their former posts;

(d) Permit legalization of independent groups, especially those seeking to carry out human rights or trade union activities, and allow them to act within the law, but independently;

(e) Ensure greater respect for the guarantees of due process, in accordance with the provisions of the relevant international instruments, adopting in particular the measures necessary to facilitate effective access to legal assistance for all persons put on trial without any type of discrimination;

(f) Ensure greater transparency and guarantees in the prison system, so as to prevent excessive violence and physical suffering from being inflicted on prisoners. In this connection, it would be a major achievement to renew the agreement with the International Committee of the Red Cross and to allow independent national groups access to prisons;

(g) Release all those persons serving sentences for offences having political connotations and for trying to leave the country unlawfully;

(h) Eliminate the existing administrative barriers to departure from the country and to the entry of Cuban citizens resident abroad.

70. In early September 1993, the bishops of Cuba published a long pastoral letter analysing different aspects of the country's social, economic and political situation. In addition to the letter, the Special Rapporteur received a document signed by several groups considered dissident within Cuba, that had joined forces. Both the letter and document make a series of proposals, listed below, which were presented to the Government. The Special Rapporteur felt it was important to take note of these texts, since they are the products of real-life experiences and actual day-to-day contact with the realities of Cuban life.

71. The pastoral letter contains, inter alia, the following passage:

"It seems to us that, concomitant with certain economic changes in the life of the country now beginning to be put into practice, some of the irritating policies should be eradicated because it would generate unquestionable relief and a source of hope in the national soul.

"(1) The exclusive and ubiquitous presence of the official ideology, accompanied by identification of terms that cannot be construed as unambiguous: Fatherland and socialism, State and Government, authority and power, legality and morality, Cuban and revolutionary. This centralist and ideologically all-embracing role of the State generates a feeling of fatigue caused by constant repetition of guidance and instructions;

"(2) Limitations imposed not only on the exercise of certain freedoms, which could be occasionally justifiable, but also on freedom itself. A significant change in this policy would guarantee, inter alia, administration of an independent judiciary which would lead us, based on stable foundations, towards consolidation of the rule of law;

"(3) Excessive control by the State security agencies which at times reaches even into the strictly private lives of individuals. That explains fear, the origin of which is poorly understood, but felt as though it were caused by something ungraspable under a veil;

"(4) The large number of persons imprisoned for activities which might be decriminalized or reconsidered as a way to free many of those serving sentences for economic, political or other similar reasons;

"(5) Discrimination for philosophical, political or religious beliefs, the effective elimination of which would encourage participation of all Cubans, without distinction, in the life of the nation."

72. The dissident organizations group, for its part, speaks of a common platform: amnesty for political prisoners; restoration of the freedoms of association, speech, assembly and peaceful demonstration, the press, trade unionism, and the right to enter and leave the country; eradication of any form of social and political discrimination, safeguarding the national identity, independence and sovereignty. In addition, these organizations, distinguished by their peaceful modus operandi, have demonstrated their willingness to begin a dialogue with the authorities within the law.

73. The Special Rapporteur does not have sufficient information to express an opinion on whether or not the current system enjoys the support of the majority of the population. He nevertheless considers that the claim that this support has been broadly expressed in recent elections is not valid, since, given the conditions in which those elections were held, the electorate was never given a genuine choice. Only after the conditions for guaranteeing the right of opinion and expression have been created would it be possible to obtain a clear idea of the electorate's preferences with regard to various options.

74. In the opinion of the Special Rapporteur, the most constructive measures, in an international context, for improving the human rights situation in Cuba should start by eliminating, as soon as possible, the vestiges of the cold war as they relate to Cuba, while at the same time endeavouring to promote the country's return to the regional and world system of cooperation and settlement of conflicts. The Rapporteur has the impression that a few timid steps are now starting to be taken towards greater confidence between Cuba and its neighbours, particularly the United States. This may have a favourable repercussion in the matter of human rights.

75. Cuba's role in the cold war has vanished, along with the economic assistance it received from the former Soviet Union. Fundamental changes in the way the domestic economy operates are more effective than any other measure in enabling the nation to provide for its own citizens. To avoid traumatic and costly disruptions, these changes should be made without delay. The international community must encourage a reform programme designed to improve productivity and efficiency in the economy. Such reforms would naturally assume a greater area for market forces to operate and greater entrepreneurial freedom. The Special Rapporteur considers that incentives or, at the very least, a policy which does not obstruct changes in the current system, rather than pressure or external conditioning, are likely to produce reforms tending towards liberalizing not only the economy, but also political life. This opinion is not shared by all those concerned about Cuba's future, but the arguments in favour of ending the embargo are gaining ground, not only in industrial, economic and academic circles, but also in political circles where there is concern about the Cuban people and the future of the country.

Appendix I

LETTER DATED 24 AUGUST 1993 FROM THE SPECIAL RAPPORTEUR ADDRESSED TO THE PERMANENT REPRESENTATIVE OF CUBA TO THE UNITED NATIONS OFFICE AT GENEVA

I have the honour to refer to resolution 1993/63 adopted by the Commission on Human Rights on 10 March 1993 entitled "Situation of human rights in Cuba". As you know, this resolution was endorsed by the Economic and Social Council in its decision 1993/274, thereby confirming the extension of the Special Rapporteur's mandate for another year.

In paragraph 2 of resolution 1993/63, the Commission calls upon the Government of Cuba to permit the Special Rapporteur the opportunity to carry out his mandate in full, in particular by allowing him to visit Cuba, and, in paragraph 7, it requests the Special Rapporteur to maintain direct contact with the Government and the citizens of Cuba. In accordance with these provisions, it is my duty to write to you to request your Government's cooperation in the discharge of my mandate, including an opportunity to visit Cuba, in order to verify the human rights situation firsthand.

(Signed) Carl-Johan GROTH
Special Rapporteur on the Situation
of Human Rights in Cuba

Appendix II

STATEMENT MADE ON 29 NOVEMBER 1993 BY THE PERMANENT REPRESENTATIVE OF CUBA TO THE UNITED NATIONS DURING THE FORTY-EIGHTH SESSION OF THE GENERAL ASSEMBLY

Mr. President,

Thirty-five years ago Cuba was a neo-colony of the United States of America, and a repressive regime, with the full knowledge and support of the Government of that country, brutally violated the human rights of our people. The destinies of Cuba were decided upon in the United States Embassy, and more than 20,000 Cubans were murdered or made to disappear, with the assistance of United States instructors.

This was the result of a century of geo-political manoeuvring and of five military interventions by the United States. National independence, respect for human rights, the establishment of a democratic system and the implementation of a development project that responded to the hopes of the Cuban people were only achieved through a much-needed popular revolution in 1959.

During the past three decades, the United States has maintained a policy of hostility and aggression against Cuba, aimed at subverting and destabilizing Cuban society in order to deprive our people, once again, of their right to exercise their sovereignty, their liberty and national independence, and to restore its previous domination of our country.

This policy, which is in violation of the Charter of the United Nations and international law, has included: unceasing efforts to economically strangle Cuba from abroad through the economic, commercial and financial blockade which is still in place and has even been strengthened; mercenary military aggression that was at the time defeated, and a continuous military threat, compounded by the illegal presence of a military base in Cuban territory; economic sabotage and terrorist actions, including numerous attempts at assassinating Cuban leaders; illegal and subversive radio and television broadcasts beamed against our people with the futile aim of promoting subversion; and continuous disinformation and propaganda campaigns with the purpose of sowing confusion in world public opinion.

Cuba has expressed its readiness to work for normal relations and cooperation with all States without exception and has demonstrated that it is prepared to engage in dialogue in the context of respect and sovereign equality.

Nevertheless, now that the cold war has come to an end, the United States has redoubled its anti-Cuban policy obviously obsolete, fraught with double standards and useless in its purpose of breaking the will of the Cuban people to resist.

The fact cannot be ignored that during the past three decades, and even at present, our national life has been influenced by the exceptional circumstance of having to face the extremely powerful threat to our existence

represented by United States policy against Cuba. The only thing that explains that, under those conditions, the Cuban revolution has been able to continue is the support and participation of the immense majority of our people in this effort of national resistance.

That is why today the Cuban Government and people can show the world, with legitimate satisfaction, that they are involved in a titanic effort to preserve our enormous achievements in the field of human rights, and not only of economic, social and cultural rights, which few would dare to question, but also of the deepening and expansion of democratic participation in the governance of the country and the enjoyment of civil and political rights.

The rights to life, work, education, health and social security are guaranteed to all citizens without distinction. Cuba can show a clean record of full enjoyment of human rights and social development indexes that are among the highest in the world.

Prevailing new international circumstances and the reinsertion of the Cuban economy into the world market have led us to a deep and bold process of transformation.

The opening of different sectors of the economy to foreign investment, the expansion of the private sector, the free circulation of foreign currency, the increase of cooperatives in agriculture and steps geared at government reorganization are significant changes carried out in the past few years.

In the political sphere, these changes have been accompanied by a reform that expanded the rights enshrined in the Cuban Constitution approved in a referendum by 97 per cent of all Cubans. A new Electoral Law was promulgated, establishing free and direct elections to elect the Parliament, through candidates directly nominated by the electorate.

In 1993, the most open elections in Cuban history were held, and with the highest participation, in the presence of thousands of guests, journalists and foreign tourists, in which 99 per cent of the electorate participated. Ninety-three per cent of them ratified, with their free and secret ballot, which was justly termed a true plebiscite by the press agencies, their support for the Cuban national undertaking.

The manipulation of the human rights issue for political ends and the slander campaign aimed at presenting a situation of violation of human rights in Cuba are a recourse of United States policy aimed at compelling internal change by force, favouring subversion and destabilization, and creating an international climate conducive to an intensification of the strangling of my country. All this is carried out without discarding a number of preposterous studies and apocalyptic recommendations made by institutions of the Government of the United State regarding the creation of a scenario propitious for a so-called humanitarian intervention in the face of alleged civil strife and internal disorder in Cuba, much sought by them.

The actions taken by the Government of the United States on the pretext of its concern for human rights are nothing but another facet of the aggressive and hostile policy with which it intends to subordinate and

amputate our national identity. These are the real reasons underlying their actions and no one should be fooled What is really under attack is the very existence of Cuba as a nation.

Once again the United Nations is compelled to carry out a sterile exercise resulting from the insistence by the United States in a slanderous resolution on an ambiguous and grey report of a so-called Special Rapporteur.

The alleged situation of human rights in Cuba, in all historical truth, was orchestrated as a consequence of political manipulations carried out by the Government of the United States, which imposed in Geneva the special monitoring mechanism of human rights applied against my country in a selective and discriminatory manner.

As is well known, this mechanism was perverted from its origins, since it is the result of a flagrant violation of all existing procedures, of the undue and dishonest use of precedents regarding other situations, and of the disregard for the activities carried out regarding this case by the pertinent United Nations bodies. Thus, we are faced with a totally artificial and illegitimate scenario, which Cuba considers null and void in all its aspects.

The truth is that to achieve their objective of manipulating the human rights mechanisms and procedures of the United Nations and of transforming them in a weapon of their policy vis-à-vis Cuba, the United States has followed the tortuous path of successive and deliberate steps that have increasingly contravened the principles and norms governing the functioning of this Organization. Those steps, in all cases, have had no basis whatsoever and have not been justified by the facts, as Cuba had systematically denounced on every occasion.

As many have appreciated, the report of the so-called Rapporteur and his lukewarm presentation before this Committee do not reflect, and cannot in any way reflect, a situation of human rights violations that does not exist. Nevertheless, the report is very far from Cuba's reality, while the resolution which is now being imposed is, at the same time, very far from the situation described in the said report. By this means, the delegation of the United States once again takes pride in continuing those manipulations to which it has accustomed us, aimed at artificially furthering this issue.

Cuba declares that it does not recognize nor will it recognize any spurious, selective and discriminatory procedures in the field of human rights; at the same time, it commits its already traditional cooperation with all mechanisms and procedures applied to all States in the field of the promotion of human rights; and it reiterates its readiness to discuss any issue in that regard in the appropriate forums and on the basis of sovereign equality and of the principles of comprehensiveness, universality, interdependence and interrelationship of all human rights, as enshrined in the Vienna Declaration.

My country has nothing to fear or to be ashamed of in the field of human rights, but it does not agree, and will in no way agree to subject its sovereign Constitution, its own legal order and the political, social and economic organization chosen by its people to the illegitimate and unjustified scrutiny of a major Power.

My people has struggled for more than a century, has faced serious dangers and is today facing sufferings to preserve the nation's independence. When independence has been earned, it is not given away through dubious political settlements precisely with those who attempt to ignore it.

The Government of the United States, promoter of the farce that gave rise to the so-called Special Rapporteur and his report, has no moral nor political authority whatsoever to set itself up as judge and jury of human rights in Cuba. And the reason is not only that it is a confirmed violator of human rights in its own territory and that it has supported all military dictatorships and repressive regimes which have existed in the post-war era, but also, and very particularly, the fact that it has maintained, without any justification, the economic commercial and financial blockade against my country, which constitutes a cruel and inhuman measure, flagrantly violating the human rights of my people and ignoring the will of the General Assembly, which has condemned it as a clear violation of the Charter and of international law.

If the extraordinary circumstances faced by my country were to be modified, if hostility and strangling were to be replaced by a constructive attitude, if the path of transformations we have sovereignly chosen were not hindered, a qualitatively new and favourable situation would emerge, from any honest point of view, for the fullest enjoyment of human rights.

In any case, and in spite of those accusing us today, our people will continue to be faithful to the example set by José Martí and to his thinking, when he enunciated the idea which, from our sovereign Constitution, presides over our independent Republic: "With all, and for the benefit of all".

Thank you very much.

Notes

1/ A/CONF.157/23.

2/ Throughout this report the names of groups and their posts are used as transmitted to the Special Rapporteur by non-governmental sources.

3/ International Labour Organisation, 79th session, 1992, Report III (Part 4A), Report of the Committee of Experts on the Application of Conventions and Recommendations (Geneva, 1992), p. 410-411.

4/ Ibid., 80th session, 1993, pp. 361-362.

5/ Ibid., p. 364.

6/ E/CN.4/1993/39, para. 57.

7/ International Labour Office, 287th report of the Committee on Freedom of Association, 27-29 May 1993 (GB.256/7/12).

8/ El País, 7 November 1993.

9/ For this case, see E/CN.4/1993/39, para. 54 (b).

10/ International Labour Conference, seventy-ninth session, 1992, ... p. 409.

11/ Ibid., eightieth session, 1993, p. 363.

12/ E/CN.4/1989/46, paras. 124, 128, 130, 143 and 144.